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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,332	01/23/2001	David Lahiri Bhatooolaul	14-28-6-1-19	9373

22046 7590 10/10/2003

LUCENT TECHNOLOGIES INC.  
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EXAMINER

DANIEL JR, WILLIE J

ART UNIT PAPER NUMBER

2686

DATE MAILED: 10/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/767,332

Applicant(s)

BHATOOLAUL ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The *1<sup>st</sup> joint inventor* did not provide a **date** of his/her signature.

### *Specification*

2. The disclosure is objected to because of the following informalities:

The *Background of the Related Art* has “*TCP*” on page 1, lines 23 and 28; and “*RRC*” on page 1, lines 29 and 31; and the *Detailed Description* has “*TPC*” on page 3, lines 3 and 8; in which there is no explanation regarding what “*TCP*”, “*RRC*”, and “*TPC*” are.

The examiner suggest the “.” be omitted from the end of the fragmented sentence on page 3, line 12.

Appropriate correction is required.

### *Claim Objections*

3. *Claim 3* is objected to because of the following informalities:

The inventor states “*responds*” on page 4, line 6 of the claim. The Examiner suggests that “response” be used for clarity purposes of the sentence.

Appropriate correction is required.

***Drawings***

4. The drawing is objected to because in **Fig. 2** the label “***Radio lLink***” should be changed to “Radio Link”. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. ***Claim 1, 3, and 5/3*** rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu et al. (EP 0328100 A2).

In regards to ***Claim 1***, Shimizu et al. discloses a cellular radio telecommunications network or digital radio communications system comprising a first base station; and a second base station, in which communications between a mobile station in a first cell or zone and the first base station are handed to the second base station as the mobile station enters a second cell under control of a radio network controller, wherein the second base station responds to information from the radio network controller or central station to send downlink or down-direction data to the mobile station only after it has received an uplink frame or packet

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therefrom as stated in column 2, lines 4-12, 22-27, 47-54; column 3, line 6-30; and as shown in Figs. 1.

In regards to **Claim 3**, Shimizu et al. discloses a method of operation a cellular radio telecommunications network comprising the steps of handing off communications between a mobile station in a first cell and a first base station to a second base station as the mobile station enters a second cell under control of a radio network controller; and controlling the second base station, in response to information from the radio network controller, to send downlink data to the mobile station only after it has received an uplink frame therefrom as stated in column 2, lines 4-12, 22-27, 47-54; column 3, line 6-30; and as shown in Figs. 6 and 8.

In regards to **Claim 5/3**, a computer program for carrying out the method step of claim 3 is rejected for the reason set forth above in the rejection of claim 3. Claim 3 serve as the basis for having claim 5/3. The computer program the claim would be inherent.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 2, 4, and 5/4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. (EP 0328100 A2) in view of Wejke et al. (US 5,175,867).

In regards to **Claim 2 and 4**, Shimizu et al. teaches a second base station being controlled by the radio network controller or central station to send downlink or down-direction data to the mobile station after receiving the uplink or up-direction frame or data as stated in column 2, 4-12, 22-27, 47-54; column 3, lines 6-30 and as shown in Figs. 6 and 8. The difference between Shimizu and the claimed invention is that the power level or threshold of the uplink frame from the mobile station has to be detected by the second base station at a greater or exceeding power level set by the radio network controller.

Wejke et al. teaches a network comprising of a means of detecting the power level or strength quality of a call as stated in column 8, line 59-63,66-68; column 9, lines 1-2 and as shown in Figs. 5, 6a, and 6b.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Shimizu et al. with Wejke et al. to have the downlink data sent by the second base station to the mobile station only after the second base station received the uplink frame from the mobile station detected at greater or exceeding power level set by the radio network controller.

The advantage of combining these teachings is to eliminate the possibility of signal interference or loss of communication during the handoff from the first base station to the second base station.

In regards to **Claim 5/4**, a computer program for carrying out the method step of claim 4 is rejected for the reason set forth above in the rejection of claim 4. Claim 4 serve as the basis for having claim 5/4. The computer program of the claim would be inherent.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Wadin et al. (US 5,329,635)* discloses a mobile radio communication system (see Fig. 4).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-5424.

WJD,Jr.  
September 12, 2003



**NGUYEN T. VO  
PRIMARY EXAMINER**